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German Inheritance Law

Have you been left an inheritance by a relative who was living in Germany at the time they passed away? Are you unsure of how to obtain the inheritance and how German inheritance law works?

The German lawyers at WILDE BEUGER SOLMECKE have been advising clients on legal matters for over 20 years. If you have been left an inheritance by a relative who was living in Germany at the time of their death, you may feel daunted by the thought of having to navigate a complex and perhaps foreign legal system. Our team of German lawyers can help you understand how German inheritance law works and can assist you with accessing your inheritance.

For more information on German inheritance law call us on +49 (0) 221 / 9688 8196 26 or use our [contact form](#).

A. Getting started

To help you get started, we have put together this overview of German inheritance law. It sets out the underlying principles of German inheritance law and gives a brief explanation of how German inheritance tax applies.

1. Do I need a will?

It is not obligatory to draft a will. If a person dies without leaving a will or if the will is invalid, the person's estate will be distributed under statutory intestacy rules.

2. Grant of representation

A grant of representation (Erbschein) is a certificate which proves that an heir is entitled to the deceased person's estate. Most banks and insurance companies ask to view the grant of representation before paying out any funds. A grant of representation is therefore required in most inheritance cases.

3. Executor or administrator

It is unusual in Germany for an executor or administrator to be appointed to administer a deceased person's estate. The exceptional cases in which such a person may be appointed include: where it is expressly required by the will; where an expert is required in order to administer a complex estate (e.g. a business); if the heirs are minors or mentally disabled; or if it is expected that a dispute will later arise between the heirs.

B. Basic principles of German inheritance law

The basic underlying principle of German inheritance law is that of 'universal succession' (Gesamtrechtsnachfolge). The principle is set out in § 1922 German Civil Code (Bundesgesetzbuch, BGB).

Under the principle of universal succession, all rights and obligations of the deceased person transfer directly and immediately (at the second of death) to their heir(s). This means that no personal representative (including executive or administrator), trustee or court ruling is required in order for the deceased's estate to pass to the heir(s).

If there is more than one heir to an estate, they form a so-called 'community of heirs' (Erbengemeinschaft). The community owns the estate together and must decide amongst themselves how to distribute it. In order to avoid disputes arising, it is advisable to draft a will in which either:

- a) one heir is named, but then required to distribute the estate; or
- b) in which all heirs are listed and the will determines how the estate is to be distributed amongst them.

important to thoroughly evaluate the financial position of an estate in order to avoid accepting an inheritance which leads to heavy indebtedness.

1. Rejecting the inheritance

To prevent heirs from inheriting a heavily indebted estate, German law foresees a mechanism by which they have the right to reject an inheritance (Erbausschlag). An heir has six weeks in which to reject the inheritance. Heirs who are not domiciled in Germany have 6 months in which to reject the inheritance. The time limit starts to run when the heir obtains knowledge of their entitlement to the estate. The inheritance must be rejected in person before the probate court or with the help of a German notary.

In the event that an inheritance is rejected, the estate transfers directly to the person who would have inherited were the initial heir not alive. This person can also reject the inheritance. If there are no remaining heirs, the estate passes to the German state.

If an heir is unsure about the deceased's state of affairs, they should apply for an administrator to manage the estate.

D. Statutory share

A close relative who is excluded from a will is entitled to claim a so-called 'statutory share' (Pflichtteil).

Under German inheritance law, children, spouses and parents are deemed to be privileged persons. They can claim against heir(s) who do inherit, half of what they would have received, had the relative died intestate (without a will).

This would mean, for example, that in the event that a testator dies leaving everything to his wife and nothing to his child, the child would be entitled to claim 25% of the estate.

Any compulsory share claims must be brought within three years from the end of the year in which the claimant obtained knowledge of the entitlement to inherit.

E. Intestacy

In the event that a person dies without leaving a will, German intestacy rules govern how the deceased's estate is to be divided amongst remaining relatives. The rules are somewhat complicated and are therefore described only briefly here.

The very basic position is that a surviving spouse will inherit a quarter of the deceased's estate, plus an additional quarter if the spouses were married in accordance with the statutory matrimonial property regime. The remaining 50% of the estate passes to the surviving children.

If there are no surviving children, parents or grandparents, a surviving spouse inherits the entire estate. If there is no surviving spouse, the entire estate passes to the children. If there is no surviving spouse or children, the intestacy rules work along the chain of relatives starting with the parents, siblings, grandparents etc.

F. Inheritance tax

Under the German inheritance tax system, it is not the deceased's estate that is taxed, but the personal gain in the hands of each individual heir. A self-assessment system is used and each heir is personally responsible for filing a tax return (Erbschaftssteuererklärung) with the tax authorities.

Inheritance tax personal allowances and tax rates

The German inheritance tax system includes personal allowances for heirs. This means that heirs may inherit up to a certain amount tax free (nil-rate band). Anything over that amount is then subject to tax. The amount of personal allowance available varies depending on the degree of relationship to the deceased. The rate of tax applicable is calculated in accordance with the degree of relationship and the amount inherited, with heirs being divided into three different tax classes.

A basic overview of inheritance tax personal allowance amounts and applicable tax rates follows:

Degree of relationship	Personal allowance (€)	Tax class
Spouse, Registered same-sex partner	500,000 + family home	I
Child, stepchild	400,000	I
Grandchild (where child of deceased has predeceased)	400,000	I
Grandchild (where child of deceased is alive)	200,000	I
Parent, grandparent (inheritance)	100,000	I
Parent, grandparent (gift/legacy)	20,000	II
Sibling, niece, nephew, step-parent, parent-in-law, daughter-in-law, son-in-law, divorced spouse	20,000	II
Other	20,000	III

German inheritance tax rate			
Amount inherited (up to and incl.) (€)	Tax rate applicable per class and amount inherited (%)		
	I	II	III
75,000	7	15	30
300,000	11	20	30
600,000	15	25	30
6,000,000	19	30	30
13,000,000	23	35	50
26,000,000	27	40	50
> 26,000,000	30	43	50

This means that a testator with a spouse and a child can pass on €900,000 plus the family home tax free. In addition, tax privileges are also available for passing on a business which the family continue to run for a certain period of time without reducing the employee head count.

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